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NOMINATIONS OF DON W. WILSON AND ARTHUR LOUIS BURNETT, SR.

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON THE

NOMINATIONS OF MR. WILSON TO BE ARCHIVIST OF THE UNITED STATES AND MR. BURNETT TO BE ASSOCIATE JUDGE FOR THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

OCTOBER 20, 1987

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NOMINATIONS OF DON W. WILSON AND ARTHUR LOUIS BURNETT, SR.

TUESDAY, OCTOBER 20, 1987

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:00 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Jim Sasser presiding.

Present: Senators Sasser and Roth.

Senator SASSER. The Committee will come to order.

Today we are going to consider an important nomination to the position of Archivist of the United States. Before doing that, I want to welcome Senator Kassebaum, our distinguished colleague from Kansas, here this morning. We are pleased to have her before the Committee.

I think you, perhaps, have an introduction you would like to make, Senator Kassebaum, so you just proceed.

TESTIMONY OF HON. NANCY KASSEBAUM, U.S. SENATOR FROM THE STATE OF KANSAS

Senator KASSEBAUM. Thank you very much, Mr. Chairman.

It is indeed a great pleasure to introduce a native Kansan before you this morning in what is, as you say, a very important post. As someone who has been a great admirer and student of history, I think you and Senator Roth and all of us share a recognition of how important the Archivist post is.

I am particularly pleased that I can be here to say a few words on behalf of Don Wilson's work in Kansas.

Don was born in Clay Center, Kansas, and attended college at both the University of Kansas and Washburn University. Most of his primary training in archiving was in Kansas at the Kansas State Historical Society and the Dwight D. Eisenhower Library, where he is still highly thought of and fondly remembered.

But Don is not simply an archivist. He is also a scholar and historian. I suppose really these are necessary ingredients to being a successful archivist. He has lectured in several Kansas universities and his writings are prolific and varied, ranging from "The Birth of the Atchison, Topeka and Santa Fe Railroad" to "Jewish Entrepreneurs in the Far West, 1849 to 1875."

Kansans were sorry to lose Don when he moved to Wisconsin in 1978, but we were thrilled to see his career as an archivist taking root. Throughout his career, he has demonstrated the ability to manage institutions effectively, is respected by the members of his

profession, moves easily in all social and political circles, and has actively participated in the national organizations relating to his profession.

I am sure his tenure at the National Archives will be lively and will reflect his devotion to preserving the past. I am really very proud to be able to be a part of the introduction this morning and I know that we are going to be proud of his work as head of the National Archives.

Thank you, Mr. Chairman.

OPENING STATEMENT OF SENATOR SASSER

Senator SASSER. Thank you very much, Senator Kassebaum, and we very, very much appreciate you being here this morning and making this introduction of Dr. Wilson.

Today, as has been indicated, the Governmental Affairs Committee will consider the nomination of Dr. Don Wilson of Kansas to be the first permanent Archivist of the United States.

The National Archives is the prime repository of our Nation's most historic documents and records.

The importance of the National Archives is underscored by the celebration this year of the 200th anniversary of our Constitution. In addition to housing the Constitution itself, the historic document itself, the Archives also houses the Bill of Rights, the Declaration of Independence. The Archives holds more than 3 billion textual documents, 2 million cartographic items, 5 million still photographs, 9 million aerial photographs, 91 million feet of motion picture film, and 122,000 video and sound recordings, all created by Federal Government agencies since the founding of our Nation.

But acquiring and assembling of that vast quantity of information did not occur overnight.

When President Washington left office in 1799, he was obliged to take his papers and records with him, since there was simply no place to deposit them, and despite his stated belief at that time that they were "a species of public property" they went back to Mount Vernon with President Washington.

Little, if any, action was taken to preserve our Nation's public records until Andrew Jackson of Tennessee requested appropriations for depositories for safekeeping of archives in 1836. Later, in 1903, land was purchased for the Archives.

But it was not until 1926 that a provision of the Public Building Act contained funds for the actual construction of the Archives building. Finally, in 1934, the National Archives establishment was created and served as an independent agency until 1949 when it fell under the jurisdiction of the General Services Administration.

It was four years ago yesterday, that legislation was signed creating an independent National Archives and Records Administration.

As our distinguished colleague, Senator Kassebaum, has noted, Dr. Wilson, trained as an historian, has served as Archivist of the Kansas State Historical Society, Historian and later Deputy Director of the Eisenhower Presidential Library, and Associate Director of the State Historical Society of Wisconsin.

Currently, he is the director of the Gerald R. Ford Presidential Library and Museum in Grand Rapids, Michigan.

Dr. Wilson brings to this position, we think, a solid academic background. A distinguished career in administration, a first-hand knowledge of the National Archives, and an understanding of the many issues facing the archival professional today.

As a nonpartisan professional, the Archivist of the United States heads the Federal agency, whose mission is that of trusteeship, a trust to preserve for the use of future generations, those records documenting our political, economic, and social history. The National Archivist must be neutral, impartial, balanced and professional.

Because this is the first appointment of an Archivist to lead the independent National Archives, the qualifications of the nominee before us today will set a precedent for future appointments.

I might say that I met Dr. Wilson for the first time several weeks ago and became acquainted with his credentials. He is widely known and respected by his professional peers. The major historical and archival organizations in this country strongly endorse his nomination.

Indeed, we have received official statements of endorsement from the Society of American Archivists, the Organization of American Historians, the American Historical Association, the American Council of Learned Societies, and the National Coordinating Committee for the Promotion of History.

And not the least of his qualifications, I might say Senator Roth, is that he married a lovely lady from Tennessee.

These letters of endorsement will be made an official part of today's hearing record.[1]

In addition to welcoming Dr. Wilson here today, I would say that we want to extend our warm greetings this morning to Patricia Wilson, Dr. Wilson's wife who, as I said earlier, is a native of Nashville, Tennessee, my old hometown and whose parents and relatives still live in Nashville.

I want to say welcome to Mrs. Wilson and welcome to you, Dr. Wilson, and I will now turn to my distinguished colleague and the ranking member of this Committee, Senator Roth, for any comments he might wish to make.

Senator ROTH. Thank you, Senator Sasser.

I, too, want to welcome both you, Mr. Wilson, and your lovely wife. Senator Dole regrets that he could not be here today and he has asked me to include his statement in support of your nomination and wish you the very best in your future endeavors. Senator Heinz also has a statement that he would like in the record.

[The statements of Senators Dole and Heinz follow:]

OPENING STATEMENT OF SENATOR BOB DOLE

Mr. Chairman, with a great deal of Kansas pride, I am pleased to introduce and support Dr. Don W. Wilson to be the Archivist of the United States. He brings before this committee an extensive record of experience in archival management and administration both at the State and national levels.

I am convinced that Dr. Wilson is eminently qualified to meet the challenges of this historically significant post, and to serve as the first administrator to head the newly independent agency which was brought into existence under the provisions of the Presidential Libraries Act of 1986. He will be responsible for management of

[1] See p. 57.

eight presidential libraries, eleven regional Archives branches, and fourteen record centers.

A native of Clay Center, KS, Dr. Wilson is an undergraduate of Washburn University, an alma mater which we share, and was the recipient of a national defense fellowship to study for the doctorate in American history at the University of Cincinnati. He served as Archivist with the Kansas State Historical Society and Library Historian at the Dwight D. Eisenhower Library in Abilene, KS. Following a term as associate director of the State Historical Society of Wisconsin, he was appointed director of the Gerald R. Ford Library and Museum, a post which he currently holds.

Dr. Wilson brings to this important leadership position a diverse background as a historian, an author, a lecturer, and an administrator. I am confident that we are placing our Nation's treasures in good hands in naming Dr. Wilson as Archivist of the United States.

Opening Statement of Senator John Heinz

Mr. Chairman, I am very pleased to have this opportunity to review the nominations of Don Wilson to be Archivist of the United States, and Arthur Burnett to be Associate Judge of the District of Columbia Superior Court.

At the outset, let me say that I am delighted that the President has chosen a respected historian and archivist in Don Wilson. For far too long, the Archives have operated without an official archivist. That is not criticism of the acting Archivist, Frank Burke, who has been on leave from his permanent position these past 2 years. He has done a fine job. But there is a real need for permanent leadership at the Archives, in order to facilitate long-range planning and stability.

As ranking member of the subcommittee with jurisdiction over the Archives, I have had several concerns in recent months. The recent reports that some of President Lincoln's papers were illegally removed from the Archives and were recovered only in the nick of time before they were sold punctuates the need to be certain that the Nation's valuable records are given the best protection.

I am also concerned about our Vietnam War Records. There are many who say that the National Archives does not have the staff or the funds to handle the Army's Vietnam-Era records, some 30,000 cubic feet of permanent records. In addition, there is concern that historically valuable douments are stored under conditions which will not preserve them. A 1985 study recommended changes to the archives to improve record storage conditions, but all of those changes have not yet been implemented.

These will be among the many difficulties facing the Archivist of the United States. I hope that Dr. Wilson will, as Archivist, undertake to be certain that deficiencies are corrected, and that the Archives will be a safe haven for our national heritage.

Thank you, Mr. Chairman.

OPENING STATEMENT OF SENATOR ROTH

Senator Roth. I might say, having the endorsement of Senator Kassebaum and Senator Dole, I think, speaks very highly of our nominee.

It is a pleasure, Mr. Chairman, to have a nominee with Dr. Wilson's credentials before us. I think it is particularly satisfying to see that the White House has chosen a nominee that is supported by the archival community. The Committee has received letters from a number of organizations endorsing Dr. Wilson and I would ask that a list of these organizations be included in the record.

[The list referred to follows:]

List of Organizations Expressing Support for Don W. Wilson, Nominee to the Position of Archivist

American Jewish Archives.
Association of Professional Genealogists.
California Geneological Society.
Federation of Genealogical Societies.
Kansas City Area Archivists.

Midwest Archives Conference.
Milwaukee County Genealogical Society, Inc.
Northeast Document Conservation Center.
National Coordinating Committee for the Promotion of History.
Society of American Archivists.
Society of Ohio Archivists.
Sylvis Society.
The Afro-American Genealogical and Historical Society of Chicago, Inc.
Topeka Genealogical Society.
University of Washington, Dept. of History.
University of Akron, Dept. of History.

Senator ROTH. The Committee has not received any negative correspondence. This is a further indication of the caliber of Mr. Wilson's professional qualifications.

At this time the Committee should note that since the retirement of Robert Warner as Archivist over two years ago, Frank Burke has served in the post as Acting Archivist and we would be remiss not to thank him for his efforts during this lengthy transition period.

The independence of the National Archives has created additional management responsibilities for the position of Archivist. Dr. Wilson has made it clear that he is anxious to undertake this challenge and devote his energies towards improving and expanding the role of the National Archives.

He has, as the distinguished Chairman pointed out, a strong background, the unique expertise that comes with serving as a director of former President Ford's library. This experience will be extremely valuable in overseeing the function of all presidential libraries, the Presidential Records Act and the Presidential Transition Act.

Dr. Wilson is eminently qualified for the position of Archivist. I believe he will provide the necessary leadership in fulfilling the role of the National Archives and retaining the history of our nation for future generations.

He has my support and I hope the committee can move expeditiously to favorably report this nomination to the full Senate for consideration.

Senator SASSER. Thank you, Senator Roth.

Senator Levin would have wished to have attended this hearing to welcome Dr. Wilson and to support his nomination to the National Archivist. Unfortunately, Senator Levin is attending a conference committee on the fiscal year 1988 Department of Defense Authorization Bill. He has asked me to announce that he will have a statement concerning Dr. Wilson that he requests be inserted in the record when it is submitted. And without objection, it will be accepted at that time.

[The statement referred to follows:]

OPENING STATEMENT OF SENATOR CARL LEVIN

Mr. Chairman: I welcome the nomination of Don Wilson to be National Archivist, and am hopeful it will be promptly approved by the Governmental Affairs Committee and the full Senate. Dr. Wilson is currently Director of the Gerald R. Ford Library in Ann Arbor, Michigan. He also has been an Adjunct Professor at the University of Michigan since 1982. His appointment will undoubtedly be Michigan's loss, but I expect it will be the country's gain.

The National Archivist nomination demands careful scrutiny by the Congress. The Archivist has wide-ranging responsibilities, of which the most sensitive and

publicized may be the handling of materials and documents of former Presidents. The Archives' ongoing processing of documents relating to the Nixon Administration and Watergate clearly highlights the importance and potential difficulties of the Archivist's job. It also shows why it is so essential that the Archivist be selected solely on the basis of his or her qualifications, and without regard to any political affiliation. Only an Archivist appointed without any political considerations can be entrusted to make impartial and fair decisions affecting both Republican and Democaratic Administrations.

Congress has stressed on several occasions that this appointment must be a non-politicized one. It was regrettable that politics played a role in the selection of a previous nominee to this position in 1986, a nomination which was justifiably never brought to a vote in the Governmental Affairs Committee. That nominee testified that he had been asked inappropriate, political questions by the White House during the selection process. Such action was in direct defiance of the National Archives and Records Administration Act which specifically states that: "The Archivist shall be appointed without regard to political affiliations and solely on the basis of the professional qualifications required to perform the duties and responsibilities of the office of Archivist." That nominee's lack of appropriate qualifications were further confirmation of my suspicions that the nomination had been made for political reasons.

Fortunately, Dr. Wilson's appointment appears to be a non-politicized one. He has been covered by various Federal and state "Hatch Acts" for the last twenty years, and thus has been restricted from any active politicking. He has also told me that he was not asked any political questions by the White House.

In addition, Dr. Wilson's twenty years of experience in the history and archival fields are evidence that he has the requisite qualifications for this post. His work among several state historical societies and Presidential libraries, as well as the support of interested archival and history organizations, indicate that he is well-suited for this post.

In sum, Dr. Wilson is a qualified and appropriate choice for National Archivist. I recommend his nomination to the Committee and full Senate.

Senator SASSER. Dr. Wilson, if you would rise, please, it is the custom of the Committee to administer the oath.

[Witness sworn.]

TESTIMONY OF DON W. WILSON, PH.D., NOMINEE TO BE ARCHIVIST OF THE UNITED STATES

Senator SASSER. Dr. Wilson, there are three questions that I am required to propound to you this morning by the rules of the committee, and I will put these three questions to you now.

Is there anything of which you are aware, in your background, which might present a conflict of interest with the duties to the office to which you have been nominated?

Mr. WILSON. There are none, to my knowledge, Senator.

Senator SASSER. Do you know of any reason, personal or otherwise, that would prohibit you from fully and honorably discharging the duties to the office to which you have been nominated?

Mr. WILSON. I do not.

Senator SASSER. If you are confirmed, do you agree, without reservation, to appear and to testify before any duly constituted committee of this Congress?

Mr. WILSON. I agree, without reservation.

Senator SASSER. You may come to regret that, at some point in the future, Doctor. [Laughter.]

Just let me say this, that the creation of an independent National Archives and Records Administration in 1984 specifically provided that "the Archivist shall be appointed without regard to political affiliations and solely on the basis of the professional qualifica-

tions required to perform the duties and responsibilities of the office of Archivist."

Dr. Wilson, do you have the professional and archival training to fulfill the duties of this job, as required under the statute?

Mr. WILSON. I believe I do, Senator.

Senator SASSER. Thank you.

There are a number of other questions that I would like to ask and I will take just a few moments and then defer to my colleague, Senator Roth.

Dr. Wilson, you no doubt would agree that steps should be taken to ensure that the public has the right to review, in a timely fashion and after archival approval, written documents of the Archives?

Mr. WILSON. Yes, I do.

Senator SASSER. And you would agree that archival primary source documents of interest to researchers should be made public?

Mr. WILSON. Yes, I do.

Senator SASSER. And furthermore, as a primary source document, would you agree the public should be able to reproduce these documents?

Mr. WILSON. Yes.

Senator SASSER. Now I noted in your written response to the prehearing questions, under item number three, you acknowledged as one of the "pressing problems" facing the Archives, one of the pressing problems is that of securing and handling of electronic records.

Now, as you know, in this day and age, we are moving away from printed documents and words to electronic, audio and video tapes. I am not sure that is the way it ought to be going, but that is the way it is going. Assuming the public has access to written words, do you feel that electronic records should also be considered primary source documents and that steps should be made for their timely availability to the public?

Mr. WILSON. Yes, I do, Senator. I think that in this age of electronic records, we need to look at very seriously the whole complex problems of achieving that permanency of record created by the computers and I think that we have to do some research technologically and we have to do some methodology studies in terms of determining how best to keep that record in a form that can be used and accessed by researchers.

Senator SASSER. While respecting the problem of so-called sensitive information, and some of it is very sensitive, do you believe the public should be able to reproduce these tapes?

Mr. WILSON. At a designated point in time. I think time is the factor which eventually takes away all reason for withholding documents. I think that electronic records must be considered in the same vein as the written record, in terms of sensitivity and their ultimate release to the public.

Senator SASSER. Dr. Wilson, I noted in response to question number 10, when asked what constitutes a Federal record, you noted that you believe, under current law, agency heads have the final authority for making the determination of what is and what is not a Federal record.

Although I am encouraged that you indicated you might recommend several changes to give the Archivist more authority, my concern remains that there seems to be no clear policy of securing presidential documents and papers, regardless of the Presidential Records Act and the Federal Records Act.

What can the archives, working with the Congress, do to ensure that current heads of agencies will not similarly abuse the "final authority" as Henry Kissinger had when he deeded his material to the Library of Congress, thus avoiding archival scrutiny?

Mr. WILSON. I sense a mood in Congress that there is a need to review and perhaps strengthen the requirements of the act, which governs making and keeping of presidential records. If I am confirmed, I will gladly take part in that review, but I would want to be careful.

And I know that the oversight committees would want to be careful, because there is a delicate balance of interest there. I think we run the risk of perhaps losing records if we do not balance that interest.

There is, indeed, a longer term interest in protecting historical property of the president's records. But there is also the need, I believe, to guarantee the executive operational latitude required for our Constitution to work.

Basically, I think full utilization of current authorities are the most effective means of assuring the creation and protection of full historical records, that being done by cooperation, by education. Perhaps in the long run, if I came to any kind of strengthening idea, it would be in giving the Archivist authority to determine what is a record.

I think that is where it is not the litigation as much as what is a record and fusing policy issues.

Senator SASSER. Thank you, Dr. Wilson.

Senator Roth, do you have questions?

Senator ROTH. Yes, just listening to your line of questions, there are no rules or regulations or requirements with respect to Congressional records, is there?

Mr. WILSON. That is somewhat true, Senator Roth. The Archives receives the official committee records of Congress, but as far as individual records of Congressmen, they are scattered around and we only have the records management advisory role, with respect to Congress.

Senator ROTH. I wonder if it would be wise, at least to try, to set out some recommendations in this area?

Mr. WILSON. I believe that is true. It has been called for in the past and I think we would do well to look into it in the future.

Senator ROTH. One other question, Dr. Wilson. This Committee has been holding hearings on the presidential transition process. Some of the witnesses have claimed that the institutional memory in the White House is very weak and they question the capability to retrieve information from prior administrations bearing on current policy matters.

Do you think there is anything the National Archives could do in this area?

Mr. WILSON. I think there is more that the National Archives can do, and with the Office of the Archivist. We do provide general

guidance and we do have a presence. I do not know whether that presence is indeed strong enough in the White House and it may well be that we should take a stronger records management role, in concern with advising the White House on determining records and the process of making sure that those records are maintained.

I do think that we have to give the Presidential Records Act a chance to work. I think that by simply designating the fact that they are Federal property went a long way in terms of maintaining the adequate historical record. I think it is yet premature to determine whether that has failed or not failed.

Senator ROTH. Dr. Wilson, as I say, that is all the questions I have. Again, I just wanted to underscore the fact that I think we are fortunate at having an individual of your caliber available, and I wish you every success.

Mr. WILSON. Thank you very much, Senator.

Senator SASSER. Thank you very much, Senator Roth.

Dr. Wilson, we appreciate you appearing here this morning and the Committee will act in an expeditious fashion on your nomination.

I congratulate you on the nomination and I am sure we will look forward to serving with you for many years.

Mr. WILSON. Senator Sasser, I did have a prepared statement, which I wish to submit for the record.

Senator SASSER. The statement will be included in the record.

Mr. WILSON. Thank you, sir.

OPENING STATEMENT OF SENATOR SASSER

Senator SASSER. Our next item of business deals with the nomination of Arthur Louis Burnett, Sr., to the post of Associate Judge of the Superior Court of the District of Columbia.

We are pleased to have before us today the Honorable Arthur Louis Burnett, Sr., a magistrate of the United States District Court for the District of Columbia. On September 14, 1987, President Reagan nominated Magistrate Burnett for the post of Associate Judge of the Superior Court of the District of Columbia, to serve for a term of 15 years.

We welcome you here before us this morning, Mr. Burnett.

Just let me say that during the last several weeks, the staff of the Committee on Governmental Affairs has been working closely with the nominee, who has been very cooperative in providing information. For that, we are most grateful.

The nomination has been the subject of a very careful review, under rule 8, which this Committee adopted in 1978. It sets forth requirements which must be met on all confirmations that are assigned to this Committee for review.

Rule 8 requires that the Committee conduct an inquiry into the nominee's experience, qualifications, suitability and integrity to serve in the position for which the president has nominated him. The Committee feels that this rule ensures a very thorough, and yet reasonable review of the nominee's background and qualification.

For the purposes of the record and interested parties, let me summarize briefly the procedure the Committee has followed in evaluating this nominee.

First, the nominee was asked for and supplied detailed information about his education, appointments and professional achievements, as well as complete financial statements.

Financial statements and biographical information are available for inspection by the public in the committee offices if the public so wishes. I am also placing the biographical information of the nominee in the record as a part of this hearing.

The Committee proceeded to review the nominee's biographical and financial information as well as a report submitted by the Office of Judicial Ethics. The FBI report is being submitted for the committee's consideration.

Finally, the nominee was individually interviewed by designated Committee staff members, who submitted their report to members of the Committee containing all relevant qualifications for the position to which he has been nominated. This is standard operating procedure for a nominee to a federal court.

Now, Mr. Burnett, under the rules of the committee, I am required to administer an oath to you, so if you would please stand, sir, and raise your right hand.

[Witness sworn.]

TESTIMONY OF ARTHUR LOUIS BURNETT, SR., NOMINEE TO BE ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Senator SASSER. Thank you, sir. If you will please be seated.

Now let me proceed with some standard questions which we propound to all of our nominees.

Senator ROTH. Mr. Chairman, if you would yield.

Senator SASSER. I would be delighted to yield.

Senator ROTH. I am going to have to leave, but I did want to make a comment or two.

Mr. Burnett, you are not a stranger to this Committee. You have a history of working with Governmental Affairs during the development and passage of the Civil Service Reform Act of 1978. I am pleased to see that your career has brought you back for this confirmation hearing.

Your career has included a number of positions that prepare you to sit as a judge on the Superior Court of the District of Columbia, most recently as U.S. Magistrate.

There have been no questions raised about your honesty and integrity and I am confident you will serve the District of Columbia well. I support your nomination and hope to see it reported favorably to the full Senate.

Mr. BURNETT. Thank you, Senator Roth.

Senator ROTH. Thank you, Mr. Chairman.

Senator SASSER. Thank you, Senator Roth.

Mr. Burnett, do you know of any reason, personal or otherwise, which would in any way prevent you from fully and honorably discharging your responsibilities as a judge to the court to which you have been nominated?

Mr. BURNETT. I know of no reason.

Senator SASSER. Let me ask you a question which requires you to look into the future, to some extent. In the event of your confirmation, is it your present intention, as far as you can ascertain into the future, to serve the full 15 year term of office?

Mr. BURNETT. It is my present intention to do so, unless nominated for higher office.

Senator SASSER. Have you ever been involved in civil litigation or administrative proceeding of any kind, as either plaintiff, defendant, respondent, witness or party of interest which is directly or indirectly related to the office for which you have been nominated?

Mr. BURNETT. I have not been involved in an individual capacity in any type of litigation. I have been a respondent in my official capacity as U.S. Magistrate in a couple of legal cases in the District Court, challenging the scope of preliminary hearings and the need for direct testimony, but that was in an official capacity, in name only, but not in my personal capacity.

Senator SASSER. Have you, or any member of your immediate family, been involved in any controversy or litigation with the tax authorities of the Federal Government, the government of the District of Columbia, or any other State or local government?

Mr. BURNETT. No, no tax problems whatsoever for myself or my family.

Senator SASSER. Is there anything else of which you are aware, in your personal or professional background, which would present any conflict of interest with the duties of the position to which you have been nominated?

Mr. BURNETT. I am aware of no matters which would present a conflict of interest problem, whatsoever.

Senator SASSER. Let me ask you this question, Mr. Burnett, how would you propose to resolve any potential, though presently unforeseeable, conflict of interest should one arise during your tenure as an Associate Judge?

Mr. BURNETT. As an Associate Judge, just as I do now as a U.S. Magistrate, I would recuse myself from handling any case in which I would have any personal, financial interest of any type, even minimal financial interest, stock interest, bond interest, or even deposits in a bank that may have a litigation before me.

The same with reference to members of family. If any members of my family, immediate family, would have such economic interest that would even present the appearance of a conflict of interest so that I could not be totally impartial and objective, I would recuse myself from handling that particular case.

Senator SASSER. I note, Mr. Burnett, from the materials you have furnished to the Committee, that you have published some two dozen articles and delivered a number of addresses since assuming your present position in 1980. Most of them concerning issues of procedure, litigation skills, and the administration of justice.

Is there anything expressed in any of your writings or speeches which might make you feel less than fully comfortable in fulfilling your judicial function?

Mr. BURNETT. No, there is nothing in my writings or speeches or discussions of matters, which I would feel would in any way inhibit my performance of duties. All of those have been geared to the im-

provement of administration of justice, the techniques and processes involved, and I think it is pretty much the central concepts of expeditious and effective handling of court cases and use of procedures, all very technical matters. Nothing which was controversial at all.

Senator SASSER. Would you tell the Committee, Mr. Burnett, a little bit about your background, your education, your professional experience and what points you think in particular qualify you to be a member of the Superior Court of the District of Columbia.

I imagine you would want to get into some detail about your duties as a U.S. Magistrate, which presently call for you to exercise many judicial functions outright.

Mr. BURNETT. Mr. Chairman, of course, I first attended Howard University here, where I majored in political science and minored in economics. I was elected to Phi Beta Kappa and graduated Summa Cum Laude from that institution. Then, in a combination program, after three years at Howard University, I went on to New York University Law School where I was an honor student and a member of Law Review.

I then left law school, upon graduation, came to the Department of Justice under the Attorney General's honors program where I served in the criminal division of the Department of Justice. I had a brief two year period of duty in the military service.

Upon return to the Department of Justice, in 1960, I was assigned to the criminal division again and specialized in government corruption and obscenity prosecutions, conflicts of interest, conspiracy, much of the type of work that independent counsels are currently doing. For five years, I was deeply involved in government corruption litigation until 1965.

I then became a regular Assistant U.S. Attorney in the U.S. Attorney's Office here in the District of Columbia. As a result of the seven years of background I had in the Department of Justice, I was used as a sort of senior Assistant U.S. Attorney. In the course of serving four years in the U.S. Attorney's Office, I tried numerous misdemeanor cases in the then Court of General Sessions, predecessor to Superior Court.

Upon assignment to the U.S. District Court, I handled the grand jury for nine months as the principal assistant handling grand jury indictments and another nine months in the appellate division where I argued approximately 20 to 25 cases in the U.S. Court of Appeals.

Thereafter, I spent several months or a year to a year and a half in the felony trial division where I tried 84 cases, 80 to a jury and four bench trials. So I had a rather intense trial exposure in the U.S. Attorney's Office.

I left there and became the first in-house counsel of the Metropolitan Police Department about the time the Supreme Court issued the stop and frisk decision and, the line up decisions. It was my duty and responsibility to issue guidelines and instructions for the Metropolitan Police Department to comply with those guidelines and to improve the police department's ability to comply with the Fourth Amendment, the search and seizure problems, arrest problems.

In 1969, I was appointed initially as one of the two United States Magistrates in the Federal Court system when the Federal courts shifted from the U.S. Commissioner system to the U.S. Magistrates. I served in that capacity for six and a half years.

Then, because of family considerations, with four teen-age children and to provide more of my time as a father to my children, I left and went to work for the Civil Service Commission as the Assistant General Counsel in charge of the Legal Advisory Division, in which capacity I had the pleasure of working with this committee for about four years, in connection with all legislation that came before the United States Congress with reference to all personnel matters, from appointment to retirement.

I was heavily involved and dealt with the Civil Service reform effort. I frequently spent 20 or more hours per week working with the staff of this Committee and with the staff of the House Post Office and Civil Service Committee.

In 1980, I returned to the U.S. District Court as a U.S. Magistrate. During this past eight years, I have performed a broad range of duties contemplated by the U.S. Magistrate's Act, including sitting as a substitute district judge in some 50 civil trials where the magistrate functions in the same functional role as the district court judge would, with appeals going directly to the Court of Appeals.

I have handled a substantial volume of pre-trial discovery motions and problems that come up in civil litigation and have been heavily involved in promoting alternative dispute resolution techniques, many pretrial procedures and other methods to promote effective and efficient movement of civil cases through the Federal courts, frequently within six to eight months after such cases had been filed.

Senator SASSER. Well, that is a very distinguished and commendable record of public service, Mr. Burnett, and one I think you can be justifiably proud of.

I notice that you are accompanied here this morning by companions.

Mr. BURNETT. My secretary is with me this morning, Mrs. Ionnie R. Butler and my current law clerk, Ms. Elahna Strom.

Senator SASSER. We are delighted to have them here with us.

Mr. Burnett, we thank you very much, on behalf of myself and members of the Committee and the staff for appearing here this morning.

Let me say, before you leave, that I want to introduce into the record a letter dated October 15, 1987 from the president of the District of Columbia Chapter of the Federal Bar Association, Ms. Marsha Echols.[1] I understand her office also contacted the committee staff by telephone last week to express its enthusiastic support for this nominee.

Ms. Eckles' letter characterizes Magistrate Burnett as "a jurist of high integrity and intelligence." And certainly that is obvious here today.

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[1] See p. 69.

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We will see that this endorsement becomes a part of the hearing record.

We will also hold the record open until the close of business next Tuesday. During that period of time, some members may have additional questions they might like to address to you by way of writing.

I would suggest that you respond as quickly as possible, if they are forthcoming, so that both questions and answers can be included in the record.

Hopefully, we will consider this nomination and vote it out here before the end of this month, I am sure.

There being no further Committee business to come before us today, the Committee will stand in recess subject to the call of the chair. Before doing so, Mr. Burnett, do you have a statement that you wish to make?

Mr. BURNETT. I have a prepared statement I wish to tender, just for inclusion in the record, to indicate my attitude of public service and the fact that, as an associate judge, I would consider a judge to be a humble servant of the litigants who appear before the court.

Senator SASSER. That is a very commendable attitude.

Your statement will be inserted in the record.

Thank you, Mr. Burnett, and the Committee will stand adjourned, subject to the call of the chair.

[Whereupon, at 10:50 a.m., the Committee was adjourned, subject to the call of the Chair.]

APPENDIX

OPENING STATEMENT BY DON W. WILSON

Archivist Nomination Hearings

I am honored and pleased to be here today as the President's nominee for Archivist of the United States. Most of my professional career has been spent in the service of the National Archives. To be under consideration as the head of this important agency is truly an exciting and challenging experience. I believe deeply in the purpose and mission of the National Archives and I am committed to seeing the institution take its rightful place as the nation's preeminent archival organization.

I recognize that the task will be challenging. But with the passage of the legislation in 1984 making the National Archives an independent agency, many opportunities now exist to enhance and widen its institutional influence. The Archives is more than a stone colossus which graces Pennsylvania Avenue and houses historic documents. It is a national agency with more than 3,000 employees located in over 30 facilities in 14 states. It consists of 11 Archives field branches, 14 Federal Records Centers, and 8 Presidential Libraries. The National Historical Publications and Records Commission functions through a network of state historical records coordinators appointed by the Governor of each state. In spite of this national presence, however, the Archives role

as keeper and publicizer of our nation's heritage is generally under appreciated. The reason for this low state of visibility appears to be rooted in its own past.

For the greater part of its institutional life, the National Archives was submerged in a larger federal agency, an agency that showed only minimal interest in the Archives mission. With the achievement of independence, the National Archives now has the opportunity to broaden its mission in several areas. One of the first important objectives for the Archives is to strengthen, and in some instances, establish ties with educational, cultural, and civic groups throughout the country.

Traditionally, our foremost concern in the National Archives has been the historical researcher. While this will, and should, remain undisturbed as a basic mission, many of us recognize that the Archives could serve a larger audience-a history-minded public excited about their country's past. This is a constituency that needs to be more fully accommodated through exhibitions, public programs and special events. As we move through the Bicentenary of the birth of our constitution and begin celebrating the beginning of our democratic form of government, the National Archives is in a prime position to reach the states and communities throughout our country with its national network.

A second, and perhaps even more basic, opportunity for the National Archives is to assume a leadership position in the development of a national archival collecting policy. Up to this point, discussions of a national records policy have focused primarily on the federal government's administration of its own records, on presidential records and presidential libraries, and on a small number of NHPRC grants for historical records projects. I agree with many of my professional colleagues that it is both appropriate and desirable for the nation's largest and most significant archives to play a leadership role in determining a policy for documenting our national heritage. While the National Archives has had broad impact on all types of records programs in the past in matters of theory, publications, and technical assistance, this role has been an inconsistent one. There has never been a leadership role adequately reflected in any policy statement of which I am aware. The time has come, I believe, to explore the possibility of a formal role by the National Archives, and there are several reasons why I think it is appropriate:

(1) recent statewide and nationwide assessment efforts have focused on archives and records issues, cutting across all levels of government and all types of programs; (2) automation and new technology present new opportunities for sharing archival information; (3) there is an increased awareness that

the critical task of preserving books and documents requires a coordinated and nationwide effort; (4) more of our citizens appreciate the importance of information to functioning in the present and to understanding the future.

Taken together, I believe these factors call for some policy formulation which clearly articulates the national interest in the identification, preservation and accessibility of archival records at all levels of government throughout the United States.

The role of the National Archives in this matter should not be one of centralization or control. The role should be one of energizing, sharing responsibility for programs with state, municipal and private repositories. Specific National Archives responsibility might take various forms--coordination, promotion, regulation, or consultation--depending on conditions, resources, and needs at any given point in time. Underlying all these activities would be consistency in policy statement and application--something that has been missing in the past.

Whatever form it might take, the critical fact remains that there is a need for a single coordinating body at the federal level representing both the federal and non-federal interest to guide, or at least monitor, those national

activities which affect historical records across the United States. Analysis and discussion should be undertaken, and I believe that the National Archives and Records Administration is the proper agency to lead such discussions. A sound and thoughtful national records policy, coupled with a highly visible National Archives, can help assure that such needs will be met. If confirmed by the Senate, I would seek to work with Congress in the development of such a policy.

Within the context of these theoretical views, I would like to address the major issues and needs of the Archives. I will also indicate what I think is the role of the Archivist in addressing those issues.

The first issue pertains to the purpose of the National Archives. It was established in 1934 to provide the federal government with a single, central repository for federal records of continuing value. Its purpose was to end the haphazard dispersal of valuable records in attics, basements, and warehouses. Congress determined that the National Archives of the United States should consist of those federal records that the Archivist determined to have sufficient historical value to warrant their continued preservation. Additionally, the Archivist was given the authority not only to accept such records, but also to direct agencies to transfer to the Archives records over 30 years old that were

no longer needed for current agency business. The Archivist also has the responsibility to make such records accessible for reference and research purposes.

Recent history has reminded us on several occasions that we need adequate records to ensure responsible and effective government. More than 50 years ago, Congress created the Archives to house those records. I can say with certainty that the National Archives strives to carry out the functions of the central archival agency. It continues its firm commitment to the principle that people should have convenient access to public records. Today, it even has multiple locations throughout the country to meet the needs of creators and users of federal records outside the Washington area. The principle remains intact, I believe, that the use of older historical federal records by agency managers, historians, genealogists, lawyers, as well as the general public, is best fulfilled when all such records are controlled by a single institution created for that purpose.

Although over one million cubic feet of records are preserved in the National Archives, there is a growing problem that significant quantities of federal records have not come under National Archives control. Some have never been scheduled for disposition. Others have been appraised as archival records, but are kept by agencies longer than current

business requires. All such situations, if they occur without the Archivist's approval, violate the law and undercut the National Archives' duties and responsibilities.

Further complicating this increasing lack of a centralized repository for documentation is the impact upon the documentation by the increased usage of electronic records and the expanded use of computers in the federal government. In many cases, these kinds of records are not being systematically appraised, scheduled or transferred in a timely manner as required by law. Agencies often retain such records because they have continuing needs for them. Other data held on computers is frequently altered or updated. Electronic records are often dependent on specific machines or software. This creates difficulties for the National Archives in transporting and accessing data. The National Archives experience with electronic records makes clear that because of the fragile nature of the medium and the ease with which records can be eliminated, either deliberately or accidentally, such materials require special treatment and early care that NARA can best provide. After 20 years of appraising and accessioning electronic records, however, the National Archives holds only about 3,000 reels of computer tape even though the federal government currently uses an estimated 13 million reels. This is the major reason a recent

commission study warned that the United States is in danger of "losing its memory".

Perhaps the most difficult problem facing the National Archives is a persistent disparity between responsibility and resources in fulfilling its mission as the federal government's central repository for valuable records. In my opinion, one of the first orders of business for any new Archivist should be the review of existing legislation and authorities for the National Archives' oversight responsibilities for federal records and information management programs. NARA's basic position, based on current legal opinions, is that responsibility for determining what constitutes a record rests with each agency head. It is the National Archives responsibility to provide explicit guidance to agencies to ensure that historically valuable records are recognized and preserved for eventual disposition to the Archives. At this point, I believe that the basic authorities do exist for the Archivist to ensure adequate documentation if the authorities are rigorously applied. National Archives' basic responsiblity, therefore, is clear. However, the authorities are less clear. I believe that further study needs to be undertaken, in consultation with this Committee, to determine whether or not it would be advantageous to give the Archivist specific authority to issue binding regulations relating to the interpretations and definition of records,

both paper-based and electronic documentation. If confirmed as Archivist, I would immediately undertake such studies and make recommendations to Congress on whether or not the Archivist's authorities should be strengthened or more rigorously applied. These studies may suggest ways to enhance the Archives' abilities to fulfill its mission.

Once historically significant records are placed in the National Archives, probably the most important responsibility of the agency is their preservation. Until recently, preservation activities were performed in an unsystematic fashion. The resources available were insufficient. This resulted in a considerable preservation backlog during the first 50 years of the National Archives' existence. Fortunately, Congress has addressed these deficiencies. First, there has been a marked increase in funding earmarked for preservation work, from $2 million in 1980 to over $6 million per year currently. Secondly, in 1984, a 20-year preservation plan was developed by the National Archives in conjunction with the National Bureau of Standards. This plan calls for the systematic preservation of NARA's current archival holdings as well as records that will be accessioned over the next 20 years. For it to work well, however, it will have to be continually monitored, updated, and reviewed. I believe we must make increased efforts to preserve the human record and the national memory which are at risk due to

deterioration of acidic paper, the use of computer records, and long-deferred maintenance of our holdings.

A new initiative that must be addressed if we are to be successful in acquiring, preserving and making available our most valuable documentation, is creating adequate space for our National Archives. The National Archives building, completed in 1934, reached its record storage capacity in the late 1960's. Since that time, over 500,000 cubic feet of archival material has been diverted to federally owned or leased buildings throughout the Washington, D.C. area. Some of the nation's most historically valuable records are currently stored in space which is not designed to provide environmental conditions necessary to preserve them. In the future, more records will have to be stored in scattered and unsuitable space unless a new archival facility is constructed which meets the National Bureau of Standards environmental requirements for archival records.

I hope that records storage and research building, which is already in the planning and preliminary design stages, could be accomplished early in the tenure of a new Archivist. Under current proposals, the new facility would be located on the outskirts of the District of Columbia on a site yet to be determined. The focus of public outreach activities such as conferences, lectures, and exhibits would remain in the

National Archives Building on Pennsylvania Avenue in areas specially designed for such purposes. Together the new archival facility and a renovated National Archives building would mark great strides in preserving and providing access to the historical memory of this nation.

In this statement, I have addressed the critical issues facing the next Archivist of the United States. But these basic issues lie at the heart of the mission of the National Archives to preserve for posterity our nation's most important federal records. The role of the Archivist is multi-faceted and the tasks are challenging. Fortunately, the institution has an experienced and very professional cadre of employees committed to the mission of the agency as envisioned by Congress over 50 years ago. But that may not be enough. We have entered a new era of records-keeping both in terms of quantity and form. The ability to administer public records in the computer age depends on the ability of the National Archives to adapt to the changes. It must assume a national leadership position. Old archival theories and practices must be reexamined and adapted to present day needs. The passive role of archivists waiting for old files of paper to be transferred by reluctant agencies must be replaced by active participation in records management. The Archivist of the United States must assume responsibility for providing the Agency with aggressive, professional leadership that will give

the staff the resources it needs to fulfill its mission. Congress, the White House, and executive agencies must be provided the information required to conduct the public's business in a timely manner. The American people deserve a professional, effective, and efficiently operated National Archives.

In conclusion, the National Archives faces complicated problems and unique opportunites. It requires leadership, ingenuity, and a long-term professional commitment to records-keeping and public service. I believe that those in leadership positions throughout our nation's archives must constantly bear in mind the needs of the next generation and beyond. Will they be able to find documentation to understand our nation's public policy, to determine government accountability, and find solutions to social and economic problems? Will there be records that preserve a basic understanding and knowledge of our society? The responsibility of the Archivist of the United States is to do everything possible to see that such records are perserved and made available for research. My entire professional career has been spent working toward these purposes. As the recent Report of the Committee on Records of Government reminds us: "Without records, there is no history. Without history, there is no understanding of continuity and change, no national consensus to support government, and little or no appreciation

for the impact of present policy on future generations."

At no time in the history of the National Archives has there been both a greater awareness of its needs and more concerted collective support of its mission by users, constituent groups, the White House, and especially Congress. It is a time of opportunity as well as great responsibility for the next Archivist. I am prepared to commit myself fully to these challenges and responsibilities if I am confirmed as the seventh Archivist of the United States.

BIOGRAPHICAL AND FINANCIAL INFORMATION FOR THE SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

A. BIOGRAPHICAL INFORMATION

1. Name: Don W. Wilson

2. Position To Which Nominated: Archivist of the United States

3. Date Of Nomination: September, 1987

4. Address: (Residence)
2264 Anderson Drive, SE
East Grand Rapids, MI 49506

(Office)
303 Pearl Street, NW
Grand Rapids, MI 49504

5. Date And Place Of Birth: December 17, 1942
Clay Center, Kansas

6. Marital Status: Married
Patricia Sherrod Wilson
July 9, 1983

7. Names And Ages Of Children:

Michael Clardy	(22)
Todd W. Wilson	(19)
Jeffrey S. Wilson	(17)
Tricia Denise Clardy	(16)

8. Education: Abilene, Kansas High School
1956-60 Diploma

University of Kansas
1961-62

Washburn University of Topeka, Kansas
1962-64 A.B. (History) 1964

(Education Continued)

University of Cincinnati
1964-72 M.A. (American History) 1965
Ph.D. (American History) 1972

9. Employment Record:

June 1967- May 1969	Archivist, Kansas State Historical Society Topeka, Kansas (State of Kansas)
Sept. 1967- May 1969	Instructor, Department of History Washburn University of Topeka, Kansas (Washburn University)
May 1969- July 1978	Historian, Deputy Director Dwight D. Eisenhower Presidential Library Abilene, Kansas (U. S. Government)
Sept. 1974- Jan. 1975	Visiting Faculty, History Department Marymount College, Salina, Kansas (Marymount College)
Jan.- May 1976	Lecturer in American History Kansas State University (Kansas State University)
July 1978- Sept. 1981	Associate Director State Historical Society of Wisconsin Madison, Wisconsin (State of Wisconsin)
Sept. 1981- Present	Director, Gerald R. Ford Library and Museum National Archives (U. S. Government)
Sept. 1982- Present	Adjunct Professor (Uncompensated) Department of History University of Michigan (University of Michigan)

10. Government Experience:

a. City Commissioner, City of Abilene, Kansas
April 1977-July 1978

b. Member, Abilene Public Library Board, 1974-78

(Government Experience Continued)

c. Member, Governor's Task Force on Tourism in Kansas
1976-77

11. Business Relationships:

a. Consultant, Ball Brothers Foundation, 1985-87

b. Consultant, Martin Luther King Center
Atlanta, May, 1983

c. Consultant, Massachusetts Historical Society
Boston, April, 1984

d. Consultant, Nebraska Historical Society
November, 1984

e. Board of Editors, Teaching History Journal
(Uncompensated) 1975-present

12. Memberships:

a. Board of Directors, Abilene Jaycees, 1969-70
President, 1971-72
Chairman of the Board, 1972-73

b. Vice Chairman, Board of Directors, Abilene Red Cross
1970-75

c. Board of Directors, Abilene Chamber of Commerce
1975-78

d. Member, Madison, Wisconsin, West Side Optimist Club
1980-81

e. Member, Ann Arbor Rotary Club, 1986-87

f. Member, Downtown Grand Rapids Rotary Club, 1987-

g. Grand Rapids Arts Council, 1986-

h. Board of Directors
Grand Rapids Celebration Committee, 1986-87

i. Member, Board of Directors
Kansas State Historical Society, 1967-present

j. Member, Society of American Archivists
1975-78; 1986-present

k. Member, American Assoc. for State & Local History
1971-present

l. Member, Visitor's Board
Gerald R. Ford Institute For Public Service
Albion College, Albion, Michigan, 1982-present

m. Member, American Historical Association Beveridge-Dunning Book Prize Award Committee, 1979-82

n. Assistant Secretary, Member
Gerald R. Ford Foundation, 1982-present

13. Political Affiliations And Activities:

a. None *

b. None

c. None

(*Have been covered by State and Federal Hatch Acts since 1967.)

14. Honors And Awards:

a. Awarded National Defense Education Act Fellowship (Title IV) by University of Cincinnati for graduate work, 1964-67

b. Recipient, General Services Administration Public Service Award, 1973 (U. S. Government)

c. Recipient, General Services Administration Outstanding Performance Award, 1976-77

d. Recipient, Outstanding Performance Awards
National Archives, 1983, 1984, 1985, 1986, 1987

15. Published Writings:

"Jewish Entrepreneurs in the Far West, 1849-1875." Masters Thesis, University of Cincinnati, 1965. (Unpublished).

"Pioneer Jews of California and Arizona." Journal of the West, vol. VI (April, 1967).

"The Birth of the Atchison, Topeka and Santa Fe Railroad." Kansas Historical Quarterly, vol. XXXIV, nos. 2 & 3 (Summer and Fall, 1968).

D-Day: The Normandy Invasion in Retrospect. (Co-editor for the Eisenhower Foundation). Lawrence: University Press of Kansas, 1971.

"The Life and Political Career of Charles Robinson, Governor of Kansas, 1861-1863." Ph.D. Dissertation, 1972. University of Cincinnati.

"The Role of the Label in Exhibits." History News, April, 1972.

"Charles Robinson: Political and Intellectual Leader." Kansas Historical Quarterly, Summer, 1975.

Governor Charles Robinson of Kansas, Lawrence: University Press of Kansas, 1975.

"Barbed Words on the Frontier: Early Kansas Editors." Kansas Historical Quarterly, Summer, 1978.

Ten Year Plan for the State Historical Society of Wisconsin. State Historical Society of Wisconsin, 1979.

"Michigan's Presidential Library." Ann Arbor Scene Magazine, July, 1984.

16. Speeches:

No formal speeches on relevant topics.

17. **Selection:**

(a) Do you know why you were chosen for this nomination by the President?

I was recommended by professional organizations because of qualifications and experience.

(b) What do believe in your background or employment experience affirmatively qualifies you for this particular appointment?

I believe that my work with state and national historical agencies over the past 20 years has provided me with the background to manage the National Archives and Records Administration. In my opinion, the Archivist of the United States must have a thorough understanding of the constituencies which the agency services, as well as the complexities of preserving and providing access to the nation's most valuable documents. I have had the opportunity and privilege of working with materials which span the most routine historical records relating to persons and families to the most complex documents of the nation located in presidential libraries. I have worked for and managed some of the country's largest and most distinguished historical archives and programs. It is that experience and knowledge which I wish to apply toward the goal of making the National Archives the highly regarded and visible cultural agency that it has the potential to become.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

Yes.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the goverment? If so, explain.

No.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

   No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

   No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

   Yes. If confirmed, the position is a career commitment on my part.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

   None.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

   None.

3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

   None.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

   None to my knowledge.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

   Letter to Ethic Office attached.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

   Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

   No.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

   No.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

   No.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense?

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

No further information required to my knowledge.

E. FINANCIAL DATA

(Retained in Committee files.)

STATEMENT

OF

ARTHUR L. BURNETT, SENIOR

Mr. Chairman and Members of the Committee, I am Arthur Louis Burnett, Senior, currently serving as one of the United States Magistrates for the United States District Court for the District of Columbia, and nominee of the President of the United States to be an Associate Judge of the Superior Court of the District of Columbia. I consider it a high honor to have been nominated by the President for this position. I consider the position, itself, one of major importance to the citizens of the District of Columbia and to all others who may have litigation pending in our local trial court from time to time.

Mr. Chairman and Members of the Committee, I come before you with almost 29 years of professional legal experience, which includes service as an attorney in the Criminal Division of the United States Department of Justice under the Attorney General's Honors Program, service as a regular Assistant United States Attorney in the District of Columbia, service as the first in-house counsel of the Metropolitan Police Department of the District of Columbia, service as Assistant General Counsel, United States Civil Service Commission and later as Associate General Counsel for the United States Office of Personnel Management, and service as United States Magistrate for more than fourteen (14) years. In all of these positions I have always endeavored to perform my very best and have devoted many extra

hours to achieve this objective. But I do not wish to convey the impression that I wish to rest on my past accomplishments.

Far more important than what I have done in the past will be what I intend do in the future. I want you to know that I will be deeply committed to rendering the highest quality of justice possible, as required by the law and the facts of each individual case, and that I will aspire to be among the best of the judges on the Superior Court of the District of Columbia, should the Senate confirm my nomination. I wish to stress that I shall consider each litigant of equal status before the court and will endeavor to be fair, impartial and objective in every decision I shall make. I view the role of a judge as being the humble servant of justice to fairly and justly decide the rights and duties of the parties before the court in civil cases and to justly deal with defendants in criminal cases, consistent with the objectives of our criminal justice system - punishment, protection, deterrence and rehabilitation.

In conclusion, if the Senate, in its judgment, confirms my nomination, I shall endeavor to give the best possible judicial service to the litigants who would appear before me in the Superior Court of the District of Columbia. I am prepared to answer any questions you may have.

STATEMENT OF BIOGRAPHICAL AND FINANCIAL

INFORMATION

FOR

Arthur Louis Burnett, Sr.

A. BIOGRAPHICAL INFORMATION

1. **Name:** (Include any former names used.)

   Arthur Louis Burnett, Senior

2. **Position to which nominated:**

   Associate Judge, Superior Court of the District of Columbia

3. **Date of nomination:**

   September 15, 1987

4. **Address:** (List current place of residence and office addresses.)

   6229 32d Place, N.W.
   Washington, D.C. 20015
   (Current Personal Residence)

   Room 1114
   United States District Court
   for the District of Columbia
   Third Street and Constitution Avenue, N.W.
   Washington, D.C. 20001
   (Current Office Address)

5. **Date and place of birth:**

   March 15, 1935
   Spotsylvania County, Virginia

6. **Marital status:** (Include maiden name of wife or husband's name.)

   Married -
   Wife - Frisbieann Lloyd

7. **Names and ages of children:**

Darnellena Christalyn Burnett, age 26
Arthur Louis Burnett, II, age 25
Darryl Lawford Burnett, age 24
~~Darlisa~~ Ann Burnett, age 22
Dionne Elizabeth D'Orsey Burnett, age 15

8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted.

John J. Wright High School
Spotsylvania County, Virginia
(June, 1952)

Howard University
School of Liberal Arts
(September, 1952 - June, 1955 and Summers, 1956-1957)
B.A. - Major - Political Science
- Minor - Economics
Elected to Phi Beta Kappa in Junior Year
Degree Awarded July 28, 1957 - Summa Cum Laude

New York University School of Law
September, 1955 - June, 1958
Associate Research Editor, Law Review
Recipient of Founders Day Award
for Placing in Top 10%
of Class - Class Standing at
Graduation - No. 24 out of 263.

Degree Awarded June, 1958
College and Law School were both completed in six (6) years. While I entered Law School on a combination liberal arts - law program, I elected to return to Howard University in the summers of 1956 and 1957 to finish a regular four (4) year program there in order to receive my college degree from Howard University, with honors.

National Judicial College (ABA)
Reno, Nevada
Attended several Judges' Courses as United States Magistrate and also served as Faculty Lecturer between 1970-1977 on search and seizure law under the Fourth Amendment and on implementation of the ABA Criminal Justice Standards.

Federal Executive Institute
Charlottesville, Virginia
Attended as Assistant General Counsel, U.S. Civil Service Commission, Seven (7) week Program for Senior Executive Officials (August 13 - September 29, 1978).

9. **Employment record:** List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.

Entered the Criminal Division, US Department of Justice as Law School Graduate under the Attorney General's Honors Program. Assigned to the Fraud Section, Criminal Division. (June, 1958 - November, 1958).

U.S. Army - drafted in November, 1958 (US 52-477-643) while attempting to get JAGC commission in U.S. Air Force. Served two (2) years in enlisted status from Private E-1 to Specialist E-4, in Brigade Headquarters personnel operations. Commissioned while on active duty in enlisted status as an Officer, Adjutant General Corps, Second Lieutenant, (0 5 706 143) November 3, 1960, and promoted to First Lieutenant, in U.S. Army Reserves on December 2, 1963.

Returned to Criminal Division, U.S. Department of Justice upon release from active duty with U.S. Army. Assigned to General Crimes Section, serving as staff attorney, then Acting Deputy Chief, General Crimes Section and on several occasions as Special Assistant United States Attorney handling cases in the Eastern District of Illinois and as special prosecutor in the United States District Court in Baltimore, Maryland. Also argued criminal cases on appeal before the United States Court of Appeals for the Fourth Circuit and the United States Court of Appeals for the Seventh Circuit. (December, 1960 - April, 1965).

Served as Assistant United States Attorney, District of Columbia in the old Court of General Sessions Division, the Grand Jury Section, the Appellate Section, and the Criminal Trial Section in the United States District Court. In the United States District Court, I tried 84 felony cases as a prosecutor, 80 of which were jury trials. (April, 1965 - December, 1968).

Served as the first Legal Advisor (General Counsel), District of Columbia Metropolitan Police Department, advising on compliance with internal regulations and orders, legal training for police officers and the use of proper investigative procedures, especially with reference to lineup procedures, stop and frisk, and in matters of arrests and searches and seizure. (December, 1968 - June, 1969).

Appointed and served as one of the two (2) first United States magistrates for the United States District Court for the District of Columbia under the pilot program to implement the Federal Magistrates Act of 1968, handling the issuance of arrest and search warrants, initial presentments, bail settings, preliminary hearings, habeas corpus and prisoner petitions, petty offenses, and some discovery and pretrial issues in civil cases. (June, 1969 - November, 1975).

Served as Assistant General Counsel, Legal Advisory Division, U.S. Civil Service Commission, in which capacity I served as the Supervising Attorney of the Division rendering legal advisory decisions on all federal personnel law issues to program officials within the Commission and to other Executive Branch Departments and Agencies, including the Office of Management and Budget and also reviewed all legislative proposals affecting the Federal civil service introduced before the U.S. Congress. I served as one of the two (2) principal lawyers for the Executive Branch in developing and obtaining passage of the Civil Service Reform Act of 1978, writing the initial draft provisions that split the U.S. Civil Service Commission into three (3) agencies, the U.S. Office of Personnel Management, the Merit Systems Protection

Board, and the Office of the Special Counsel (though administratively housed in the Merit Systems Protection Board). I also served first as Secretary and then later as Acting Chairman, U.S. Civil Service Commission Advisory Committee on Administrative Law Judges. (December, 1975 - December, 1978).

Upon the creation of the U.S. Office of Personnel management, I became an Associate General Counsel, with legal advisory functions. I also took the examination in 1979 and qualified for appointment as an Administrative Law Judge. (January, 1979-January, 1980).

Reappointed and serves as one of three (3) United States Magistrates for the United States District Court for the District of Columbia (January 29, 1980 to Present). Attached is a list of 49 civil cases over which I have presided with consent of the parties under 28 U.S.C. § 636(c) since January 29, 1980, functioning in the same capacity as a United States district judge. (Attachment A at Tab A). Also attached is a list of 31 reported court decisions I have written, which have been published since January 29, 1980. (Attachment B at Tab B). These reflect some of my judicial work during the past eight (8) years). It is noted that most of the United States Magistrates' work in the Federal judicial system in the form of rulings on discovery and other pretrial issues, decisions in consent civil trials, and reports and recommendations are not published in the official court reports. Over the past almost eight (8) years I have issued several thousand rulings in the form of memorandum opinions, memoranda and orders. This would be in addition to the memoranda, orders, reports and recommendations issued as a United States Magistrate during my first term from June, 1969 to November 30, 1975.

10. Government experience: List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.

There are none in addition to those listed under item 9, Employment record.

11. **Business relationships:** List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.

There are no business relationships. The only non-government affiliation during the past ten (10) years I have held has been as a volunteer on the Academy of Holy Names (A Catholic girls High School) Board of Regents and the Academy of Holy Names of Silver Spring, Maryland, Inc., Foundation.

12. **Memberships:** List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable and other organizations.

American Bar Association

Member of Council,
Section of Administrative Law
(Three Year Term - 1987-1990)

Member of Council,
Judicial Administration Division
(1974 - 1975)

Chairman,
National Conference of Special Court Judges,
Judicial Administration Division
(1974-1975) (Note - I held several of the subordinate offices in the ladder to the Chairmanship between 1970 - 1974).

Chairman,
Civil Rights and Employment
Discrimination Committee
Section of Administrative Law (1987 - Present
Vice-Chairman (1986-1987).

Chairman,
Criminal Law and Juvenile Justice
Committee
Section of Administrative Law (1983
- 1985).

Vice-Chairman,
Rules of Criminal Procedure and Evidence Committee
Criminal Justice Section (1984 - Present).

Chair,
Use of Magistrates Subcommittee
Committee on Trial Practice, Litigation Section
(1985 - Present).

Federal Bar Association

Section Coordinator and Member of Executive Committee (1986 - Present) (I have previously served as Deputy Section Coordinator, Chairman of the Federal Litigation Section (two years), Chairman of the Administration of Justice Section (two years) and held other lesser committee offices at the National Federal Bar Association level over the past 10-15 years.

President, District of Columbia Chapter,
Federal Bar Association, 1984-1985.

National Bar Association
Member since 1967;
Life Member - since 1970

Washington Bar Association
Member since 1966

Bar of Association of the District of Columbia
Member since 1961.

American Judicature Society

President,
National Council of United States Magistrates
1983 - 1984. I held subordinate offices in the ladder before becoming President.

Phi Beta Kappa
(Member since 1955)

Omega Psi Phi Fraternity
(College Fraternity - since 1954)

John Carroll Society
(Catholic Professional Men and Women Organization)

In addition to the above, I have served on numerous committees of the several bar associations over the years since 1961.

13. **Political affiliations and activities:**

(a) List all offices with a political party which you have held or any public office for which you have been a candidate.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $50 or more for the past 10 years.

Member of the Republican Party since May, 1985 - I have held no political offices nor been a candidate for any political office. I have not made political contributions to any political party in the past. Until age 23 I was an Independent. I then registered as Democrat. However, throughout my entire adult life I have always voted for the person I objectively concluded was the best qualified to perform the functions of the office. With reference to political contributions, I have only used the checkoff on the IRS tax form.

14. **Honors and awards;** List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

Phi Beta Kappa (1955)

Graduated from Howard University, Washington, D.C. July 28, 1957 - Summa Cum Laude.

Faculty Scholar - (Scholarship Award at New York University School of Law, 1956 - 1958).

Recipient of Founders' Day Award in 1958 for Placing in Top 10% of Graduating Law School Class - 1958.

Elected to and Served on New York University School of Law
Law Review, 1957 - 1958.

Entered the U.S. Department of Justice under the Attorney General's Honors Program in June, 1958.

In U.S. Army I Received Army Commendation Medal for Exceptional Performance of Military Service at Fort Ord, California signed by the Secretary of the Army in 1960, for performance of service above and beyond the call of duty. This service included assisting Brigade Commanding Officer, a Colonel, to run a Brigade with five Battle Groups as to all administrative matters, while Brigade Commander commanded Post, Fort Ord, California after airplane crash had killed the previously assigned Post, Commanding General, during the period prior to appointment of new Post Commander. This extra duty covered several months in 1960.

Recipient of the United States Attorney General's Sustained Superior Performance Award in 1963 for service as Special Assistant U.S. Attorney in Baltimore, Maryland in the government corruption prosecution against former Congressmen Thomas F. Johnson and Frank W. Boykin and two others from 1961-1963 and for service as Acting Deputy Chief in the General Crimes Section of the Criminal Division, U.S. Department of Justice, and for service on other special assignments and tasks during the 1961-1963 time period.

Recipient of the United States Civil Service Commission's Distinguished Service Award for legal work on the Civil Service Reform Act of 1978 and the civil service reorganization and reform effort, December 6, 1978.

Recipient of the United States Office of Personnel Management Director's Award for Meritorious Service, January 24, 1980.

Recipient of the Federal Bar Association Continuing Legal Education Distinguished Service Award, July 16, 1981.

Recipient of the Franklin N. Flaschner Judicial Award, National Conference of Special Court Judges, Judicial Administration Division, American Bar Association - as the outstanding judge in the United States on a trial court of special or limited jurisdiction for distinguished service in improving the quality of justice in special courts, July 6, 1985.

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports or other published materials which you have written.

For list of published writings since January 29, 1980, see (Attachment C at Tab C), listing 24 different published articles and other legal writings.

Other legal writings prior to January 29, 1980 are:

1. Burnett, Search Warrants: Impact and Application of Chimel and Spinelli and Related Problems, 29 Fed. B.J. 170 (1970).

2. Burnett, Bail Reform in the District of Columbia, 10 Amer. Crim. L. Rev. 197 (1971).

3. Burnett, Evaluation of Affidavits and Issuance of Search Warrants - A Practical Guide for Federal Magistrates, 64 J. Crim. L. & Criminology 270 (1973).

4. Burnett, Obscenity: Search and Seizure and the First Amendment, 51 Denver L. Journal 41 (1974).

5. Burnett, Probable Cause Revisited: Emphasis in the Federal Magistrates System, 14 The Judges' Journal 33 (April 1975).

6. Chapter 20, Pretrial Conference, in Bender's Criminal Defense Techniques (1970).

7. Burnett, "Sentencing--Exercising Judicial Discretion and Assuring Equal Protection Under Law," an unpublished paper delivered before the Ohio Municipal Judges' Association 1977 Winter Meeting and Judicial College Session in Columbus, Ohio on January 14, 1977 (Attachment D at Tab D). This paper was, in fact, a forerunner of our emphasis today on Federal Sentencing Guidelines.

8. Burnett, "A Separate Independent Appeals Board for Federal Employees in the Executive Branch," a paper prepared as a proposed law review article and which was later used by the author as the basis for the provisions of the Civil Service Reform Act of 1978 pertaining to the Merit Systems Protection Board. (Attachment E at Tab E).

9. Burnett, "Potential Impact of the Civil Service Reform Act of 1978 on the U.S. Court of Claims," an unpublished paper delivered before the 1979 National Judicial Conference of the United States Court of Claims, May 17, 1979. (Attachment F at Tab F). The paper was published in Proceedings of the Court of Claims Judicial Conference, 1979, pp. 102-110.

In addition to the foregoing, I attach a copy of an article from The Forum, the Newsletter of the District of Columbia Chapter, Federal Bar Association, published in 1981 - Burnett, "Dismissal of Federal Attorneys and Their Protection." (Attachment G at Tab G).

I have also delivered a number of unpublished papers at continuing legal education programs for the bar and the judiciary over the past eight (8) years dealing with preventing discovery abuse, the efficient handling of other pretrial issues in civil cases, the effective use of United States Magistrates to conduct settlement conferences, and on the use of mini-trial proceedings to expedite resolution of civil cases. Most of these papers have been incorporated in final articles published in the law journals, law reviews and handbooks set forth in the attachment of published writings since January 29, 1980. In addition I have delivered papers as a lecturer on several occasions on issuance of arrest and search warrants and other functions of United States Magistrates for the Federal Judicial Center.

16. **Speeches:** Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

Speeches I have given during the past eight (8) years have been incorporated in my legal writings and papers set forth in detail in item 15.

17. **Selection:**

(a) Do you know why you were chosen for this nomination by the President?

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

(a) I am of the view that I was selected by the President on merit, based on the 29 years of professional legal and judicial experience set forth in the answers to the questions above.

(b) I believe my extensive experience as a Department of Justice attorney, as an Assistant United States Attorney in the District of Columbia, as Legal Advisor for the Metropolitan Police Department for the District of Columbia, and the more than fourteen (14) years of experience as United States Magistrate described in detail above fully and affirmatively qualifies me for the appointment as an Associate Judge of the Superior Court of the District of Columbia.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

Currently I am employed as United States Magistrate in the U.S. District Court for the District of Columbia. If confirmed I will resign on the date I am sworn in as an Associate Judge of the Superior Court of the District of Columbia.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

The only outside arrangements I have at the current time are two legal writing arrangements I am engaged in on my own time as follows:

- I have a contract with Matthew Bender & Company, Inc. to write Chapter 93, "U.S. Claims Court Practice" for a book entitled, "Intellectual Property Counseling and Litigation: Techniques and Strategy" I entered into on April 7, 1987. The original manuscript of 138 pages of text has just been completed and was forwarded to the publisher and to one of the General Editors on September 28, 1987. I will received the regular compensation per each printed page finally approved.

- I am under contract with the Lawyers Co-operative Publishing Co., signed February 13, 1987, for the standard royalty percentage to write two (2) volumes of no less than 500 text pages in bound format entitled, "Federal Magistrate Practice and Procedure." The original manuscript is to be completed by December 31, 1988. The work on the preparation of text is being done on my own time at nights and on weekends at home.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

Not Applicable.

4. Has anybody made a commitment to employ your services in any capacity after you leave government services?

No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Yes, I expect to serve the full 15 year term, unless later appointed to higher judicial office.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

None, other than the two (2) legal writing contracts described above.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

None.

3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

I have testified before Congressional committees on behalf of the Federal Bar Association on the Federal Magistrates Act and proposals to amend that Act and on Federal Criminal Law legislative proposals. I have also testified on behalf of the National Council of United States Magistrates on legislative proposals dealing with the functions and duties of United States Magistrates. I have had discussions with Committee staff in both the Senate and the House on proposed legislation in these two areas. My current records reveal that in 1977 I testified before the Senate Subcommittee on Improvements in Judicial Machinery on the proposed Magistrate Act of 1977. In 1978 I testified as Chairman of the FBA Criminal Law Committee on the Federal Criminal Code Revision. When I served with the U.S. Civil Service Commission I testified on several occasions for the Administration before the House Post Office and Civil Service Committee on the Civil Service Reform Act proposals that resulted in the Civil Service Reform Act of 1978 and I had discussions with Committee staff of that Committee and with the staff of the Senate Committee on Governmental Affairs. All contacts on civil service issues were in my government-employment capacity.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

I do not anticipate any conflict of interest problems. Other than banks holding mortgages on real estate interests reflected in my financial net worth statement and other debts indicated there, I foresee no problems. Of course, I would not handle any case in which a personal creditor was a party or in any way involved in the litigation. All creditors are listed in the Current Financial Net Worth Statement submitted herewith in a separate envelope.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

As United States Magistrate since January 29, 1980 my financial disclosure statements have been submitted to the U.S. Judicial Conference Judicial Ethics Committee (now chaired by Judge John H. Pratt, Room 3411, U.S. Courthouse, 3rd & Constitution Avenue, N.W., Washington, D.C. 20001.) Each year a copy has been filed with the Clerk of the Court for the United States District Court for the District of Columbia. These are a matter of public record. I agree to have the Committee contact the Judicial Ethics Committee and/or the Clerk of the Court.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you or any business of which you are or were an officer every been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense?

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None.

E. FINANCIAL DATA

(Retained in Committee files.)

SUPPLEMENT FOR D.C. JUDGE NOMINEES

F. QUESTIONS CONCERNING STATUTORY QUALIFICATIONS PURSUANT TO DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970, SEC. 11-1501(b) OF THE D.C. CODE AS AMENDED

1. Are you a citizen of the United States?

   Yes, I was born in Spotsylvania County, Virginia, March 15, 1935 of parents, both of whom were U.S. citizens, born in the Commonwealth of Virginia.

2. Are you a member of the bar of the District of Columbia?

   Yes.

3. Have you been a member of the District of Columbia bar for at least 5 years? (Give year in which you became a member.)

   Yes, Admitted - October 20, 1958.

4. If the Answer to No. 3 is "No"-

   (a) Are you a professor of law in a law school in the District of Columbia?

   (b) Are you an attorney employed in the Distict of Columbia by the United States or the District of Columbia?

   (c) Have you been eligible for membership in the bar of the District of Columbia for at least 5 years?

   (d) Upon what grounds is that eligibility based?

   NOT APPLICABLE

5. Are you a bona fide resident of the District of Columbia?

   Yes.

6. Please state the addresses of your actual place of abode (includeing temporary residences) with dates of occupancy for the last 5 years.

   6229 32d Place, N.W.
   Washington, D.C. 20015
   (Since December, 1968 to the present)

7. Have you maintained an actual place of abode in such area for at least 5 years?

Yes - I have been at the same residence for almost 19 years.

8. Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nomination Commission?

No.

9. Have you been a member of either Commission within the last 12 months?

No.

AFFIDAVIT

Arthur Louis Burnett, Senior being duly sworn, hereby states that he has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his knowledge, current, accurate, and complete.

Arthur L. Burnett Sr.

Subscribed and sworn before me this 30 day of September, 19 97.

Bettie F. Bryant
Notary Public

LETTERS OF SUPPORT FOR DON W. WILSON

October 13, 1987

Honorable Jim Sasser
Chair, Subcommittee on Government Efficiency,
Federalism, and the District of Columbia
Senate Hart Building, Room 432
United States Senate
Washington, D. C. 20510

Dear Senator Sasser:

On behalf of the nearly 10,000 historical organizations located throughout the United States and the hundreds of thousands of Americans who belong to those organizations, and who look to the American Association for State and Local History for leadership and representation in all matters relating to history, historic preservation, historical research and interpretation, it is my pleasure to support the confirmation of Don W. Wilson as the next Archivist of the United States. It is my understanding that you will be chairing the confirmation hearing on Dr. Wilson, and I would like to have this letter and the support of our organization made a part of the hearing record.

In our opinion, Dr. Wilson is a superb and well-qualified individual to serve as the first national Archivist of the now independent National Archives and Records Administration. Through his training as a professional historian, his additional specialized studies in the field of archives and records management, and in his work both within a major state historical organization and in the Presidential Library system of the National Archives, Dr. Wilson possesses all of the qualifications, experiences, and points of view to understand and knowledgeably guide the National Archives. In addition to his formal qualifications for the position, he is also an accomplished and energetic historian who is interested both in the type of historical research that can be accomplished making use of archival records, and in teaching Americans more and more about their history. Moreover, Dr. Wilson has also been involved in a variety of regional and national historical organizations and professional associations--including our organization--and thereby has won the admiration and respect of his professional colleagues.

We are pleased that President Reagan has nominated an individual with the appropriate background and skills to serve the nation well as its Archivist. We now urge prompt confirmation so that we may all get on with making our National Archives the model and the envy of the nations and the kind of national service center for the preservation and teaching of American history it should be.

Sincerely,

Larry E. Tise
Director

AMERICAN ASSOCIATION FOR STATE AND LOCAL HISTORY

172 Second Avenue, North, Suite 102, Nashville, Tennessee 37201

ACLS

Stanley N. Katz
President

October 8, 1987

The Honorable Jim Sasser
Chairman, Subcommittee on Government Efficiency,
Federalism, and the District of Columbia
Senate Hart Building, Room 432
U.S. Senate
Washington, D. C. 20510

Dear Senator Sasser:

I understand that you will be chairing the confirmation hearing of Don Wilson to be Archivist of the United States. I would like the following statement on behalf of the American Council of Learned Societies to be included as part of the hearing record.

I am writing to you in my capacity as President of the American Council of Learned Societies in support of the nomination of Don Wilson to be Archivist of the United States. ACLS represents some 250,000 scholars in the humanities and social sciences, grouped into 45 learned societies. These societies represent the broad range of humanistic and social science knowledge in the United States, and many of these scholars engage in archival research, especially the historians, political scientists, sociologists and anthropologists.

I myself am a professional historian, and currently the President of the Organization of American Historians, which will address you separately. I have been a user of public archives, including the National Archives, since 1954, and I am closely in touch with other scholars who use archives and professionals who manage them. I might also mention that, as President of ACLS, I am the Chairman of the Board of the International Research and Exchanges Board (which manages American academic exchanges with the Soviet Union and Eastern Europe) and in that capacity have helped to conclude an agreement with the Main Archival Administration of the Soviet Union, chaired by the Acting Archivist of the United States, Frank G. Burke. I also served as a member of the National Coordinating Committee panel which recommended a slate of proposed candidates for the Archivist job to the White House Personnel Office. I feel, therefore, that I am well aware of the problems and possibilities for the National Archives.

American Council of Learned Societies
228 East 45th Street, New York, NY 10017-3398
212 697 1505

Allow me to say that I am extremely enthusiastic about the nomination of Don Wilson. I feel it urgently important that a professional archivist be appointed to the post, and Dr. Wilson's credentials are impeccable. I also think it important that someone who has had a major responsibility in managing federal archives be appointed, and here of course Dr. Wilson's experience with the Gerald Ford papers is excellent. Finally, I think it important that any professional nominated have the respect and confidence of the archival and scholarly communities. Don Wilson enjoys just that.

In every respect, therefore, Don Wilson's appointment will serve the Archives well, and ensure the continued cooperation of the scholarly community with this most important institution. I urge you to review his credentials in the most favorable possible way.

Yours sincerely,

Stanley N. Katz

SNK;mb

bc: Page Miller ✓

ORGANIZED 1884 INCORPORATED BY THE CONGRESS 1889

American Historical Association

400 A STREET S.E. WASHINGTON, D. C. 20003 | 202-544-2422

October 15, 1987

The Honorable Jim Sasser
Chairman, Subcommittee on Government Efficiency,
Federalism, and the District of Columbia
United States Senate
Senate Hart Office Building, Room 432
Washington, DC 20510

Dear Senator Sasser:

I am writing on behalf of the American Historical Association to convey to you and the members of the Senate Governmental Affairs Committee our wholehearted support for the appointment of Don Wilson as Archivist of the United States and to request that this letter of support be included in the record of the hearing.

Dr. Wilson has an impressive record of accomplishment as a professional historical administrator. He is the director of the Ford Library and Museum, who since 1981 has brought it into successful and efficient operation. Wilson is also a former associate director of the Eisenhower Library. His extensive experience with Presidential Libraries prepares him to serve the Archives especially well as plans are made and implemented for a Reagan Library.

The 1984 Act (PL 98-497), which established the National Archives and Records Administration, specifically provides that the Archivist of the United States shall be appointed "without regard to political affiliates and solely on the basis of professional qualifications." Dr. Wilson is a nonpartisan professional who will provide the kind of leadership and effective administration the National Archives needs as an independent agency.

The American Historical Association is the oldest and largest professional historical organization in the United States, chartered by the Congress in 1888, and its members have a deep commitment to the preservation and dissemination of our national history. We urge a speedy confirmation of Don Wilson, an excellent choice for U.S. Archivist.

Sincerely,

Samuel R. Gammon
Ambassador (Retired)
Executive Director

Mid-Atlantic Regional Archives Conference

Delaware
District of Columbia
Maryland
New Jersey
New York
Pennsylvania
Virginia
West Virginia

mid-atlantic archivist

October 20, 1987

Honorable Jim Sasser, Chairman
Subcommittee on Government Efficiency, Federalism,
and the District of Columbia
Senate Hart Building, Room 432
United States Senate
Washington, D.C. 20510

Dear Senator Sasser:

The Mid-Atlantic Regional Archives Conference (MARAC) is pleased to support and acclaim the nomination of Don W. Wilson to be the seventh Archivist of the United States, the first permanent Archivist since the National Archives and Records Administration became an independent agency in 1984. We especially welcome the appointment of a non-partisan archivist and historian with a strong professional background. Don Wilson possesses extensive pertinent experience and expertise, a vital commitment, and the strong leadership skills necessary to serve the American people well in a position which demands such qualifications.

Don Wilson's reputation among his fellow professionals for integrity and impartiality in archival matters strengthens his already substantive qualifications for the job. On behalf of the nearly one thousand members of the Mid-Atlantic Regional Archives Conference, I ask that you enter this statement of affirmation for the nomination of Don W. Wilson to be Archivist of the United States as part of the hearing record.

Sincerely,

Karen Dawley Paul

Karen Dawley Paul
Chair
Mid-Atlantic Regional Archives
Conference

Midwest Archives Conference

Room 19 Library
1408 West Gregory
Urbana, IL 61801

October 11, 1987

Senator James Sasser
432 Hart Senate Building
Washington, D.C. 20510

Dear Senator Sasser:

I understand that, as chair of the Senate Subcommittee on Government Efficiency, Federalism and the District of Columbia, you will be chairing the confirmation hearing for Don Wilson as Archivist of the United States. I am writing as President of the Midwest Archives Conference to express our satisfaction that the nomination process is moving in a very positive direction.

In May of 1986 and 1987, we wrote to President Reagan, members of the Senate Committee on Governmental Affairs, and senators from the Midwest to express our concern about continued delays and problems in filling this position. On those occasions, we were troubled by the lack of appropriate professional qualifications of John Agresto, who had been nominated by the White House.

In light of the problems that have surrounded this appointment, we are pleased that the nomination process has now produced a nominee who bears the professional qualifications described in the legislation for the National Archives and Records Administration. We are encouraged that Don Wilson's confirmation is imminent because the long delay in the appointment has taken attention away from the many important issues facing the National Archives.

When future nominations are made, we hope that the issue of appropriate professional qualifications will be taken seriously early in the process so that lengthy delays in filling vacancies can be avoided.

Meanwhile, we hope that the nomination process will proceed quickly since there is a full agenda for the work of the new Archivist of the United States.

Thank you for your consideration.

Sincerely yours,

William J. Maher
President, Midwest
Archives Conference

Mississippi Department of Archives and History

Post Office Box 571 • Jackson, Mississippi 39205-0571 • Telephone 601-359-1424
Elbert R. Hilliard, Director

October 19, 1987

The Honorable Jim Sasser
Chair
Subcommittee on Government Efficiency, Federalism,
and the District of Columbia
Senate Hart Building
Room 432
United States Senate
Washington, D. C. 20510

Dear Senator Sasser:

We were pleased to learn that you have scheduled the confirmation hearing of Don W. Wilson, who has been nominated by President Reagan to serve as Archivist of the United States.

Dr. Wilson, who is a non-partisan, professional archivist and historian, is exceptionally qualified for this important position and is well-respected by the archival profession. I hope that you and the other members of your subcommittee will see fit to recommend his confirmation.

With every good wish, I am

Sincerely,

Elbert R. Hilliard

ERH:vb
cc: The Honorable John C. Stennis
The Honorable Thad Cochran

Board of Trustees: William F. Winter, president / John K. Bettersworth / James P. Coleman / Arch Dalrymple III / Mrs. Stewart Gammill III / Gilbert R. Mason, Sr. / Mrs. Mitchell Robinson / Everette Truly / Sherwood W. Wise

NATIONAL COORDINATING COMMITTEE
FOR THE PROMOTION OF HISTORY

NCC

Administrative Offices: 400 A STREET SE
WASHINGTON, DC 20003(202) 544-2422

DR. PAGE PUTNAM MILLER
[illegible]

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October 14, 1987

Senator Jim Sasser
Chairman, Subcommittee on Government Efficiency,
'Federalism, and the District of Columbia
Senate Hart Building, Room 432
U.S. Senate
Washington, DC 20510

Dear Senator Sasser,

As Director of the National Coordinating Committee for the Promotion of History, I am writing in support of the nomination of Don Wilson for Archivist of the United States. I would like for the following statement to be included as part of the confirmation hearing record:

> The National Coordinating Committee for the Promotion of History, representing forty-eight historical and archival organizations, strongly endorses the nomination of Don W. Wilson for the position of Archivist of the United States. Wilson is a nonpartisan, professional historical administrator who has established an impressive record of accomplishments. His extensive experience with the Kansas and Wisconsin Historical Societies and with the presidential libraries of Dwight D. Eisenhower and Gerald R. Ford prepare him well for this position.
>
> The appointment of the first Archivist under the new legislation creating an independent National Archives sets an important precedent. This legislation states specifically that "The Archivist would be appointed by the President ... without regard to policitical affiliations and solely on the basis of professional qualificiations." The intent of Congress would be well served by the nomination of Wilson who has the leadership, the professionalism, and the impartial judgement to insure credibility of sensitive decisions regarding preservation, restrictions, and accessibility of this nations records.
>
> For six years the national historical and archival organizations of this country worked to separate the National Archives from the General Services Administration. Securing a strong and able leader for the National Archives is the final crucial step of the Archives' independence movement. It is thus with great pleasure that the NCC supports Don Wilson, an eminently qualified candidate to assume leadership of the National Archives.

Thank you for your support of the Nati[illegible] Archives and your attention to the efforts to secure a nonpartisan professional U.S. Archivist.

Sincerely,

Page Putnam Miller

Page Putnam Miller, PHD
Director

ORGANIZATION OF AMERICAN HISTORIANS

OFFICE OF EXECUTIVE SECRETARY

112 NORTH BRYAN • BLOOMINGTON, INDIANA • 47401

TEL. NO. 812—335-7311

October 16, 1987

Senator Jim Sasser, Chair
Subcommittee on Government Efficiency,
Federalism, and the District of Columbia
Senate Hart Building, Room 432
U.S. Senate
Washington, D.C. 20510

Dear Senator Sasser:

I understand that you will be chairing the confirmation hearing of Don W. Wilson to be Archivist of the United States on November 20. I would like the support of his confirmation on behalf of the Organization of American Historians to be included as part of the hearing record.

The Organization of American Historians has supported Don W. Wilson for this position since April 10, 1986, when the OAH Executive Board unanimously passed a resolution urging his nomination. As the largest national learned and professional society representing those who specialize in the history of this country, the 11,000 members of the Organization of American Historians (OAH) represent the constituency which would have been most adversely affected by a mediocre political appointment as the Archivist of the United States. The OAH has written letters to President Reagan and to various members of Congress over the last few years clearly indicating that it supports the General Services Administration's guidelines for such an appointment, particularly the statement that the position shall be filled "without regard to political affiliations and solely on the basis of the professional qualifications required to perform the duties and responsibilities of the office."

The Organization of American Historians continues to believe that Don W. Wilson fits these guidelines and will make an excellent, non-partisan Archivist of the United States.

Sincerely,

John Hoff-Wilson

John Hoff-Wilson
Executive Secretary, OAH
Professor of History, Indiana University

JHW/klh

The Society of American Archivists
600 S. Federal, Suite 504, Chicago, Illinois 60605 (312) 922-0140

Donn C. Neal
Executive Director

October 13, 1987

Senator James Sasser
United States Senate
Washington, D.C. 20510

Dear Senator Sasser:

On behalf of the Society's President, Sue E. Holbert, I am pleased to send to you a copy of the statement that the Society of American Archivists would like to enter into the record in connection with the nomination of Don W. Wilson to be Archivist of the United States.

Please let me know if you would like additional information.

Sincerely yours,

Donn C. Neal
Executive Director

The Society of American Archivists

600 S. Federal, Suite 504, Chicago, Illinois 60605 (312) 922-0140

STATEMENT OF THE SOCIETY OF AMERICAN ARCHIVISTS

The Society of American Archivists (SAA) is pleased that President Reagan now has chosen a professional archivist, Don W. Wilson, to head the National Archives and Records Administration (NARA). Dr. Wilson has established a notable record in several NARA positions, most recently as Director of the Gerald R. Ford Library and Museum.

Don W. Wilson possesses the professional qualifications, the commitment, the vision, and the leadership skills to serve the American people well in this important responsibility. In addition, he has earned the respect of both archivists and the principal users of the National Archives.

Don W. Wilson thus brings to the position of Archivist of the United States the reputation for integrity and impartiality that the position requires, and he presents every qualification that the Society of American Archivists has recommended on several occasions.

Accordingly, SAA supports Don W. Wilson's nomination to be the first permanent Archivist of the United States since the National Archives and Records Administration gained its independence in 1984. SAA encourages and anticipates his speedy confirmation, and the organization and its members look forward to working with Dr. Wilson in the years ahead.

SAA takes this opportunity to urge the Congress to provide the resources necessary to support the National Archives and Records Administration and to assist Dr. Wilson in developing the world's pre-eminent archival institution. The citizens of the United States deserve assurance that the records are protected and preserved, and that these records will be available for use by present and future generations.

The Society would like also to acknowledge the excellent leadership that Frank G. Burke has provided as Acting Achivist of the United States during the nearly two and one-half years that he has served in that capacity. His service during this crucial and difficult period reflects well on his long career as a professional archivist and staff member of the National Archives and Records Administration.

WASHBURN UNIVERSITY OF TOPEKA
Department of History
Topeka, Kansas 66621
Phone 913-295-6315

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October 13, 1987

Senator Jim Sasser, Chair
Subcommittee on Government Efficiency,
Federalism and the District of Columbia
Senate Hart Building #432
United States Senate
Washington, D.C. 20510

Dear Senator Sasser:

We understand that you plan to hold confirmation hearings for Don Wilson to be Archivist of the United States. Please include in the record our support of his confirmation.

Dr. Wilson is a graduate of Washburn University with a major in the Department of History. He has taught courses for us as an adjunct professor. We are proud to have been associated with him both as student and colleague, and look forward to his leadership at the National Archives. His appointment is important in that it ensures that the historical records of our nation and our people are preserved in a manner accessible to ourselves and to future generations.

Sincerely yours,

Marilyn L. Geiger

Marilyn L. Geiger, Professor and Chair
Department of History

LETTER OF SUPPORT FOR ARTHUR L. BURNETT

Federal Bar Association

National Headquarters: 1815 H Street, N.W., Washington, D.C. 20006 • (202) 638-0252

District of Columbia Chapter

1987-1988

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377-4471

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272-9686

Recording Secretary
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Howard University
686-6461

Treasurer
Claire Whitaker
U.S. Attorney's Office
District of Columbia
272-9171

October 15, 1987

The Honorable James Sasser
Chairman
Subcommittee on Government Efficiency,
Federalism and the District of Columbia
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Senator Sasser:

On behalf of the District of Columbia Chapter of the Federal Bar Association, I am writing in support of the nomination of Magistrate Arthur L. Burnett, Sr. as Associate Judge of the Superior Court of the District of Columbia.

We in the District of Columbia Chapter know Magistrate Burnett to be a jurist of high integrity and intelligence, who is a tireless worker on behalf of the public good. Magistrate Burnett has been a prolific writer in legal journals, including the Federal Bar News and Journal, and he has recently edited the manual for practice before the U.S. Claims Court and Court of Appeals for the Federal Circuit. For many years he has been the inspirational force behind a major Federal litigation seminar of national scope. His contributions go far beyond this listing.

We know that Magistrate Burnett has served with notable distinction in the Federal civil service, in addition to his long service with Federal courts.

The District of Columbia Chapter of the Federal Bar Association strongly endorses Magistrate Burnett without qualification, and we hope that it may be possible to testify on his behalf at his confirmation hearing.

Thank you.

Sincerely,

Marsha A. Echols
President